

Assembly Bill No. 2416

Passed the Assembly August 29, 2006

Chief Clerk of the Assembly

Passed the Senate August 24, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 22317.2 to the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2416, Torrico. Consumer loans: automated valuation model fees.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation by the Commissioner of Corporations of those engaged in making consumer loans and makes a willful violation of the law a crime. Under existing law, an appraisal fee may be charged by a licensee on any loan made that is secured by real property if specified requirements are satisfied. Existing law provides that only one fee for appraising the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior appraisal.

This bill would authorize a licensee to collect a fee for use of an automated valuation model result prepared by a 3rd party not to exceed the actual cost paid to the 3rd party for a written automated valuation model result in lieu of an appraisal, as specified. The bill would also authorize a licensee to charge a reduced appraisal fee for appraising the same real property one year after collecting a fee for an automated valuation model result if the borrower has obtained a new or additional loan. The bill would require a licensee in a loan transaction secured by real property to provide notice, as specified, to a borrower that, upon request, the borrower is entitled to receive a copy of the automated valuation model result, provided he or she has paid for the automated valuation model result.

Because a willful violation of the bill's requirements by a licensee would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 22317.2 is added to the Financial Code, to read:

22317.2. (a) A licensee may collect a fee for use of an automated valuation model result prepared by a third party not to exceed the actual cost paid to the third party for a written automated valuation model result in lieu of the appraisal provided for in Section 22317. The borrower shall not be charged for both an automated valuation model result and an appraisal as defined in Section 22317 for the same property in a single transaction. Only one fee for providing an automated valuation model result or an appraisal for the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior delivery of an automated valuation model result or an appraisal. However, if a fee for an automated valuation model result has been paid, an appraisal fee minus the amount that has been paid by the borrower for the automated valuation model result may be charged for an appraisal for the same real property within one year if the borrower has obtained a new or additional loan. The fee is not included in charges as defined in this division or in determining the maximum charges that may be made under this article.

(b) A licensee in a loan transaction secured by real property shall provide notice as described in this section to a borrower of the borrower's right to receive a copy of the automated valuation model result, provided he or she has paid a fee for the automated valuation model result. A borrower's written request for a copy of an automated valuation model result shall be received by the licensee no later than 90 days after (1) the licensee has provided notice of the action taken on the application, including a notice of incompleteness, or (2) the application has been withdrawn.

(c) The licensee shall mail or deliver a copy of an automated valuation model result within 15 days after receiving a written request from the borrower, or within 15 days after receiving the automated valuation model result, whichever occurs later.

(d) Where the loan is proposed to be secured by real property, the notice of the borrower's right to a copy of the automated valuation model result shall be given in at least 10-point boldface type, as a separate document in a form that the borrower may retain, and no later than 15 days after the licensee receives the written application. The notice shall specify that the borrower's request for the automated valuation model result must be in writing and must be received by the licensee no later than 90 days after the licensee provides notice of the action taken on the application or a notice of incompleteness, or in the case of a withdrawn application, 90 days after the withdrawal. The notice shall also include the following statement: "An automated valuation model is not an appraisal. It is a computerized property valuation system that is used to derive a real property value." An address to which the request should be sent shall be specified in the notice. Release of the automated valuation model result to the borrower may be conditioned upon payment of the fee.

(e) This section does not apply to automated valuation model results obtained by licensees on property owned by the licensee, nor to automated valuation model results obtained by the licensee in anticipation of modifying any existing loan agreement if the licensee does not charge for the use of the automated valuation model result.

(f) For purposes of this section, an "automated valuation model" is a computerized property valuation system that is used to derive a real property value.

(g) Nothing in this section authorizes the use of an automated valuation model result in lieu of an appraisal that is required under state or federal law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2006

Governor